

Patent
Attorney Docket No. GEMS8081.045

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Gupta et al.

Serial No. : 09/748,520

Filed : December 22, 2000

For : METHOD AND APPARATUS FOR DISPLAYING
REAL-TIME STATUS OF PRODUCT AVAILABILITY,
ORDERS, AND SALES REVENUE

Group Art No. : 2171

Examiner : Nguyen, C.

RECEIVED

FEB 02 2004

OFFICE OF PETITIONS

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

Mailing☐ deposited with the US Postal Service in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231**37 CFR 1.8(a)****37 CFR 1.10**☐ with sufficient postage as first class mail ☐ As "Express Mail Post Office to Addressee" Mailing Label No.**Transmission**☒ transmitted by facsimile to Fax No.: 703-872-9306 addressed to Examiner Nguyen at the Patent and Trademark Office.Date: 12-31-03Signature John A. Jordan

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docketed by: 27
Date: 1/2/04

PETITION TO MAKE DECLARATION
UNDER 37 C.F.R. §1.131 UNDER 37 C.F.R §1.47(a):

Dear Sirs:

Pursuant to 37 C.F.R. §1.47(a), Applicant respectfully requests to proceed with the enclosed Declaration under 37 C.F.R. §1.131 without the participation of joint inventors Aman Gupta and Amit Maheshwari.

Gupta et al.**SERIAL NO.: 09/748,520****Last known address as required under MPEP §409.03(c):**

Aman Gupta
626 E Kilbourn Ave., #505
Milwaukee, WI 53202

Amit Maheshwari
31 Osborne Road
Brookline, MA 02446

Proof of pertinent facts:

Pursuant to MPEP §409.03(d), please find herein attached a copy of the pertinent communications between Mr. Yenerich and the undersigned. Additionally, a Declaration in support of this Petition attesting to the accuracy of the information herein is included.

On December 1, 2003, the undersigned emailed correspondence to an email address that was last known to be current for each of the inventors. The email correspondence included an electronic copy of a declaration and an explanation of the content of the declaration stating that the undersigned was in possession of direct evidence of prior conception. A review of the document and, if accurate, a signature were requested of each inventor. An immediate email response and a faxed copy of the signed declaration were received from James Yenerich on December 1, 2003. However, no response, email or otherwise, was received from Aman Gupta or Amit Maheshwari. Accordingly, a second email correspondence was sent to Aman Gupta and Amit Maheshwari again requesting review of the attached Declaration and, if accurate, a signature. Again, no response was received from Aman Gupta or Amit Maheshwari.

Furthermore, on December 1, 2003, a phone call was placed to Aman Gupta's last known phone number. However, Mr. Gupta was not present and, as such, the undersigned left a voice message for Mr. Gupta relating the information conveyed in the above-mentioned emails. Mr. Gupta never responded to the voice message.

As the undersigned was not in possession of a phone number known to be associated with Amit Maheshwari, the undersigned phoned Mr. Maheshwari's last known employer on December 1, 2003. However, the employer did not know of a phone

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number for Mr. Maheshwari and, therefore, the undersigned was unable to attempt contact with Mr. Maheshwari via phone.

On December 23, 2003, two email correspondences were sent to James Yenerich requesting his assistance in locating Aman Gupta and Amit Maheshwari. Mr. Yenerich reviewed company internal documentation pertaining to the locality of the co-inventors and previously known to be accurate. Mr. Yenerich then attempted to contact the co-inventors via the conduits listed in the documentation to no avail. Specifically, as evidenced in the included documents, Mr. Yenerich stated that he sent a correspondence to Mr. Gupta's last known address and received notification that "[t]he user of this email account is currently on a leave of absence" and that "[n]o other information is available." Mr. Yenerich also communicated that Mr. Maheshwari left common employment approximately two years ago and that Mr. Yenerich had no knowledge of his location.

Conclusion

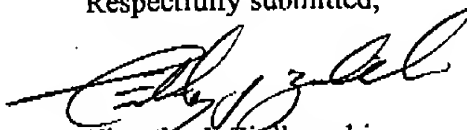
It is believed that the included evidence in conjunction with the summary of correspondences provides proof that multiple bona fide attempts were made to contact Aman Gupta and Amit Maheshwari and secure signatures on the enclosed Declaration. The requirements to execute the Declaration were clearly communicated to Mr. Gupta and Maheshwari via the undersigned's emails. Accordingly, a "diligent effort" was made to locate and communicate with the inventors but was unsuccessful. As such, it is believed that all requirements of MPEP §409.03(d) and 37 C.F.R. 1.47 have been met. Further, the evidence provided in support of the Declaration is a document signed and substantiated by all inventors. The signing inventor has established that the invention, as presently claimed, and initially disclosed in the documentary evidence attached to the Declaration, was conceived prior to the effective filing date of the references and

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supports the necessary due diligence between them and the filing date of the present application. Accordingly, Applicant requests the entry of the enclosed Declaration without the signatures of Aman Gupta and Amit Maheshwari.

Respectfully submitted,



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Dated: December 31, 2003
Attorney Docket No.: GEMS 8081.045

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